

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-04-001

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF NATIONAL
FARMERS UNION PROPERTY AND CASUALTY COMPANY,**

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of California Casualty Indemnity Exchange (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated April 16, 2003 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was a corporation licensed by the Division to conduct all lines of property and casualty insurance.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on April 16, 2003, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2002 to December 31, 2002.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-

204(1), C.R.S.

5. The market conduct examiners prepared the Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order (the "Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A concerns the following violation: Failure to maintain records for market conduct examinations. The Respondent shall amend its policies and procedures to ensure record maintenance for market conduct examinations in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue B concerns the following violation: Failure, in some cases, to state the actual reason for proposing the action. The Respondent shall amend its policies and procedures to include a statement in its notices of the actual reasons for proposing an increase in premium or a reduction in coverage in compliance with Colorado insurance law.
11. Issue C concerns the following violation: Failure, in some cases, to offer to exclude the person with the claim or driving record problem and continue coverage for another household member. The Respondent shall adopt and implement policies and procedures to ensure it offers to exclude household members whose driving records or claims experiences would justify the refusal to write the coverage while continuing to offer coverage to other members of the household in accordance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.

12. Issue D concerns the following violation: Misapplication, in some cases, of filed rating rules. The Respondent shall review and implement procedures to ensure proper application of filed rating rules in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
13. Issue E concerns the following violation: Failure, in some cases, to include a statement setting forth the coverage under which claims payments are made. The Respondent shall review and implement procedures to ensure inclusion of a statement of coverage under which claims payments are made in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
14. Issue F concerns the following violation: Failure, in some cases, to provide equitable settlements of claims in which liability has become reasonably clear. The Respondent shall review and implement procedures to ensure equitable settlements of claims in accordance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
15. Issue G concerns the following violation: Failure, in some cases, to send a letter to the claimant and/or health care provider setting forth reasons why additional time is needed to investigate a claim. The Respondent shall review and implement procedures to ensure that where additional time is necessary to investigate a claim, explanatory letters are sent to a claimant and/or health care provider in accordance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
16. Issue H concerns the following violation: Failure, in some cases, to pay personal injury protection benefits in a timely manner as required by Colorado insurance law. The Respondent shall review and implement procedures to ensure that personal injury protection benefits are paid in a timely manner in accordance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
17. Pursuant to § 10-1-205(3)(d), C.R.S., Respondent shall pay a civil penalty to the Division in the amount of twenty-four thousand five hundred and 00/100 dollars (\$24,500.00) for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
18. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

19. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All audits shall be performed in accordance with Division guidelines. All audit reports must be received within ninety (90) days of the Order, with a summary of the findings, including all monetary payments to covered persons.
20. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions as provided for by law.
21. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the final examination report dated April 16, 2003, are hereby adopted and filed and made an official record of this office and the above Order is hereby approved this 21st day of July, 2003.



Doug Dean
Commissioner of Insurance